

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN SENATE JUNE 22, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 852**

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### Introduced by Assembly Member Fong

February 17, 2011

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An act to ~~add~~ *amend and repeal* Section ~~87482.1 to 87482.9~~ of the Education Code, relating to community colleges.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 852, as amended, Fong. Public postsecondary education: community colleges: temporary faculty.

Existing law establishes the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges. Governing bodies of community college districts are authorized to employ any person holding appropriate certification documents, and to classify these employees as temporary employees, as prescribed.

~~This bill would provide that beginning July 1, 2013, temporary community college faculty members have a right of first refusal for assignments, as defined, subject to any greater rights provided in a collective bargaining agreement or otherwise provided by a district. A temporary faculty member would only be denied the right of first refusal~~

~~for just cause, as defined. This bill would provide that the right of first refusal may not be construed as “reasonable assurance” of employment for purposes of unemployment compensation eligibility between academic terms. The bill would provide that the right of first refusal provided by this bill applies only to assignments traditionally given to temporary faculty members that are in a subject matter for which the faculty member is qualified to teach, and shall not apply to contract faculty members, regular faculty members, or faculty overload assignments. The bill would require specified rights granted to terminated employees to be satisfied before providing the right of first refusal provided by this bill, following a layoff.~~

~~Because this bill would impose additional duties on community college districts, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*Existing law requires the issue of earning and retaining annual reappointment rights by any person employed as temporary or part-time faculty to be a mandatory subject of negotiation with respect to the collective bargaining process relating to any new or successor contract between community college districts and temporary or part-time faculty.*

*This bill would require that issue of earning and retaining annual reappointment rights to include terms of implementation and be negotiated fully. The bill would repeal this provision on January 1, 2020.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California’s community colleges have historically hired
- 4 temporary faculty to teach courses in basic skills, entry level
- 5 transfer courses, and career technical education. The employment
- 6 of temporary faculty enriches the curriculum, adds diversity of

1 experience and knowledge to the college, and strengthens the tie  
2 between the college and its community.

3 (b) Temporary faculty comprise over 40,000 of the current  
4 community college faculty and teach approximately 45 percent of  
5 all community college courses in California.

6 (c) Student success is predicated on a consistent and stable  
7 workforce that is knowledgeable, meets performance expectations  
8 through satisfactory evaluations, and lends both expertise and  
9 experience to the needs of the college and students. A secure pool  
10 of temporary, part-time faculty is necessary on a long-term basis  
11 to support students who require continuity of quality instruction,  
12 mentoring, letters of recommendation, curriculum development,  
13 and learning outcomes assessment that will improve student success  
14 and retention.

15 (d) With workforce reductions and other adjustments in meeting  
16 college needs, temporary faculty who have experience and  
17 knowledge and meet the needs of students and the college are  
18 being disenfranchised from the college workforce. This act will  
19 provide the colleges with a proven pool of faculty who have  
20 historically served the college, satisfactorily served student needs  
21 and success, and have been proven to be an asset to the continued  
22 needs of the college.

23 (e) This act should not be construed to diminish or otherwise  
24 affect the requirements, guarantees, or other protections under a  
25 collective bargaining agreement, district policy, or state or federal  
26 law that provides for greater or additional requirements, guarantees,  
27 or protections than those provided under this act.

28 ~~SEC. 2. Section 87482.1 is added to the Education Code, to~~  
29 ~~read:~~

30 ~~87482.1. (a) Commencing July 1, 2013, temporary community~~  
31 ~~college faculty members shall have a right of first refusal for~~  
32 ~~assignments as set forth in this section, subject to any greater rights~~  
33 ~~provided in a collective bargaining agreement or otherwise~~  
34 ~~provided by a district.~~

35 ~~(b) A temporary faculty member who has been employed in a~~  
36 ~~community college for at least four of the preceding eight semesters~~  
37 ~~or at least six of the preceding 12 quarters and whose last~~  
38 ~~evaluation, if any, was satisfactory shall have the right of first~~  
39 ~~refusal for an assignment in the community college district that~~  
40 ~~the faculty member has performed within the preceding eight~~

1 semesters or preceding 12 quarters. If two or more temporary  
2 faculty members claim the same assignment, the assignment shall  
3 be offered in the order of seniority.

4 (e) A temporary faculty member may be denied the right of first  
5 refusal only for just cause, which includes, but is not limited to,  
6 giving the assignment to a more senior faculty member, failure of  
7 a faculty member to timely request the assignment in writing if  
8 required by the district, or a district decision not to offer the  
9 assignment because of recent low enrollment, funding, or program  
10 changes.

11 (d) The right of first refusal of an assignment granted by this  
12 section shall not be construed as “reasonable assurance” of  
13 employment for purposes of unemployment compensation  
14 eligibility between academic terms.

15 (e) This section applies only to assignments traditionally given  
16 to temporary faculty members that are in a subject matter for which  
17 the temporary faculty member is qualified to teach, as determined  
18 by the community college district. Nothing in this section shall  
19 apply to contract faculty members, regular faculty members, or  
20 faculty overload assignments.

21 (f) Following a layoff, the rights granted to a terminated  
22 employee pursuant to Sections 87744 and 87745 shall be satisfied  
23 before providing a right of first refusal pursuant to this section.

24 (g) This section shall not supersede collective bargaining  
25 agreements entered into on or before July 1, 2013.

26 SEC. 3. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.

31 SEC. 2. Section 87482.9 of the Education Code is amended to  
32 read:

33 87482.9. (a) This section applies only to temporary and  
34 part-time faculty within the meaning of Section 87482.5. The issue  
35 of earning and retaining of annual reappointment rights shall be a  
36 mandatory subject of negotiation, including terms of  
37 implementation, shall be negotiated fully with respect to the  
38 collective bargaining process relating to any new or successor  
39 contract between community college districts and temporary or  
40 part-time faculty occurring on or after January 1, 2002 2013.

1     ***(b) This section shall remain in effect only until January 1, 2020,***  
2     ***and as of that date is repealed, unless a later enacted statute, that***  
3     ***is enacted before January 1, 2020, deletes or extends that date.***

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